

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

ROBERT DEPALMA,

Plaintiff,

-against-

1:14-CV-0058 (LEK/CFH)

NEW YORK STATE, *et al.*,

Defendants.

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**ORDER**

This matter comes before the Court following a Report-Recommendation filed on January 27, 2014, by the Honorable Christian F. Hummel, U.S. Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3. Dkt. No. 5 (“Report-Recommendation”).

Within fourteen days after a party has been served with a copy of a magistrate judge’s report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” FED. R. CIV. P. 72(b); L.R. 72.1(c). “If no objections are filed . . . reviewing courts should review a report and recommendation for clear error.” Edwards v. Fischer, 414 F. Supp. 2d 342, 346-47 (S.D.N.Y. 2006); see also Cephias v. Nash, 328 F.3d 98, 107 (2d Cir. 2003) (“As a rule, a party’s failure to object to any purported error or omission in a magistrate judge’s report waives further judicial review of the point.”); Farid v. Bouey, 554 F. Supp. 2d 301, 306 (N.D.N.Y. 2008).

No objections to the Report-Recommendation were filed in the allotted time period. See Docket. After a thorough review of the Report-Recommendation and the record, the Court has determined that the Report-Recommendation is not subject to attack for clear error or manifest injustice.

Accordingly, it is hereby:

**ORDERED**, that the Report-Recommendation (Dkt. No. 5) is **APPROVED** and **ADOPTED in its entirety**; and it is further

**ORDERED**, that all claims against New York State and against Defendants Scott Don, John Doe #1, and John Doe #2 in their official capacities are **DISMISSED**; and it is further

**ORDERED**, that Plaintiff's claims alleging excessive force in violation of the Fourth Amendment be accepted for filing and that, upon receipt from Plaintiff of the documents required for service of process, the Clerk shall issue summonses, together with copies of the Complaint (Dkt. No. 1), and forward them to the United States Marshal for service upon Defendant Scott Don; and it is further

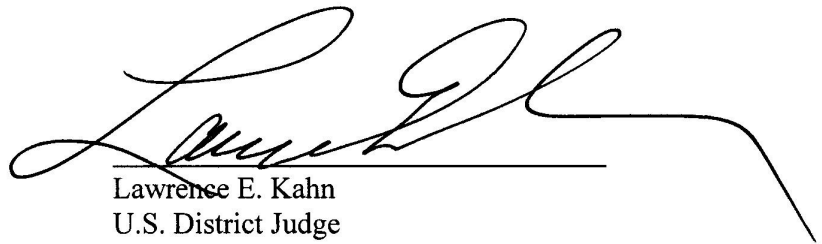
**ORDERED**, that the Clerk forward a copy of the summons and Complaint, by mail, to the New York State Office of the Attorney General, together with a copy of the Report-Recommendation (Dkt. No. 5) and this Order; and it is further

**ORDERED**, that all pleadings, motions, and other documents related to this action must be filed with the Clerk of the United District Court, Northern District of New York, Fifth Floor, James T. Foley United States Courthouse, 445 Broadway, Room 509, Albany, New York 12207. Any documents sent by any party to the Court or the Clerk must be accompanied by a certificate showing that a true and correct copy of that document was mailed to all opposing parties or their counsel. Plaintiff must promptly notify the Clerk's office and all parties or counsel of any change in his address, and his failure to do so will result in dismissal of this action; and it is further

**ORDERED**, that the Clerk serve a copy of this Order upon the parties to this action in accordance with the Local Rules.

**IT IS SO ORDERED.**

DATED: April 03, 2014  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge